

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1186 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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AMBICA INDUSTRIAL & AGRICULTURAL PRODUCTS

Versus

GUJARAT INDUSTRIAL DEVELOPMENT CORPORATION

Appearance:

MR VC DESAI for Petitioner

Ms. S. Varghese for M/S TRIVEDI & GUPTA for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 01/10/96

ORAL JUDGEMENT

One of the contentions raised by the learned counsel for the petitioner is that the order dated 14-10-1982 and the consequential orders annexure-I, J and K have been made by the respondents without giving notice or opportunity of hearing to the petitioner. It has been contended that the respondents have with them the address for correspondence with the petitioner, but the notice has been sent to an address which has not been given for future correspondence by the petitioner. The petitioner contended that none of the notices has been received and as such the aforesaid order is made in violation of the principles of natural justice.

2. Reply to the special civil application has not been filed and as such the facts stated in the special civil application stand uncontroverted. The counsel for the respondents Ms. S. Varghese raised preliminary objection that this special civil application is not maintainable as the petitioner has a right of appeal against the order of eviction made against him. I do not find any substance in this contention for the reason, that this special civil application has been admitted and pending for all these years and the contention of the learned counsel for the petitioner that the impugned orders have been made in violation of the principles of natural justice stands uncontroverted. Otherwise also this court is not deciding the matter on merits, but

consider it to be appropriate to send the matter back to the respondents to decide the same afresh after giving notice and opportunity of hearing to the petitioner.

3. In the result this writ petition succeeds and the same is allowed. Orders annexure I dated 4-1-1983, J dated 3-3-1983 and K dated 2-12-1983 are quashed and set aside and the matter is sent back to respondent No.1 to decide the same after giving notice and opportunity of hearing to the petitioner. However, it is made clear that in case possession of the plot is taken meanwhile, then it will continue with the Corporation, and in case ultimately the Corporation decides the matter in favour of the petitioner then only it may be restored and not otherwise. Rule made absolute accordingly. No order as to costs.

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csm